

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
PARIS DIVISION

FILED
EASTERN DISTRICT COURT
OF TEXAS
MAY 19 1997

LINDA FREW, ET AL.,
Plaintiffs,
§
§
§
V.
§
§
MICHAEL McKINNEY, ET AL.
Defendants.
§

CIVIL ACTION NO. 3:93CV65

DAVID J. MALAND, CLERK

DEFENDANTS' MONITORING REPORT, MAY 1997

TO THE HONORABLE JUDGE JUSTICE:

Pursuant to Paragraph 306 of the Consent Decree, Defendants file their Monitoring Report, attached as Exhibit A, and incorporated by reference.

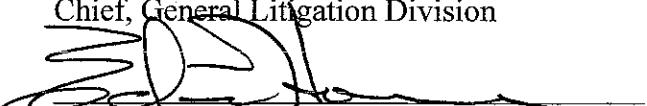
Respectfully submitted,

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ATTORNEYS FOR DEFENDANTS

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CERTIFICATE OF SERVICE

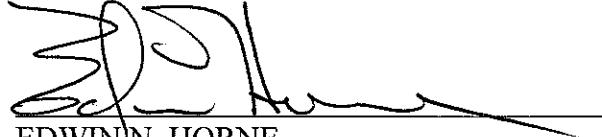
I certify that a true and correct copy of the foregoing Defendants' Monitoring Report, May, 1997, has been served on this the 15th day of May, 1997, on the following counsel of record:

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(VIA FIRST CLASS MAIL)

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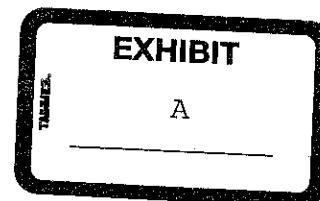


EDWIN N. HORNE
Assistant Attorney General

1997 LAWSUIT ACTION ITEMS
Updated April 30, 1997

Action	Deadline	Status
1. This paragraph does not preclude the development of new Medicaid card formats in the future as contemplated by Paragraph #304. #18		<p>On February 3, 1997, a letter was sent to the plaintiffs for the purpose of clarifying and assuring mutual agreement on the aspects of the MEDICAID ID (MED ID) form to be tested.</p> <p>A proposed research design for qualitative testing was furnished to the plaintiffs on February 14, 1997. The research design was reviewed by the plaintiffs with comments and recommendations incorporated into the interview questions being used in the testing. The plaintiffs were furnished with the revised interview questions the week of April 21, 1997.</p> <p>Qualitative testing of the MED ID form is scheduled to begin on April 28, 1997. After the qualitative research is complete the Plaintiffs have recommended that quantitative research should be used to evaluate the new card's effectiveness before it is put into use.</p> <p>The Department is delaying the decision on conducting quantitative research pending the outcome of the qualitative testing now being conducted.</p> <p>See Exhibit A</p>

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Action	Deadline	Status
<p>2. Maintain a list of recipients for whom no dental check up bill has been received no more than 60 days after the check up was due. # 41</p> <p>List recipients who require outreach because of missed check ups in the geographic area served by each outreach unit. # 44 Dental only</p>	Beginning May, 1997	<p>Completed December, 1996. Based on this list, TDH Central Office began mailing letters to clients who were overdue for their dental check-ups, e.g., approximately 87,000 client letters were mailed in March, 1997.</p> <p>Samples of the client dental overdue letters were previously furnished to the plaintiffs.</p>
3. Defendants will develop and implement a method that reports the number and percent of recipients who receive medical and or dental check ups after receipt of oral outreach. # 61	By September 1, 1996	<p>On March 10, 1997, the plaintiffs were provided with a very detailed report (including corrective actions and report options) about the Department's problems with the data entry system for these outreach reports.</p> <p>A follow-up letter was sent May 6, 1997, asking the plaintiffs if they wished to receive the reports based on any of the options outlined in the above letter.</p> <p>Exhibit B</p>

Action	Deadline	Status
4. Defendants have created a new billing form for immunizations. It allows the tracking of recipients' progress toward completion of the full series of immunizations. The tracking system for progress towards completion of all immunizations will be in place and running by January, 1996. This system will permit providers to promptly request up to date information about patients' immunization status.	By January, 1996	<p>ImmTrac version 2.11, with an automated upgrade feature and easier inquiry access for private providers was installed in three private provider offices, several regions (1, 6/5s, 7, 8), and the TDH central office. All other regional offices and the Laredo local health department will get the upgrade by the end of July, 1997. After all existing sites are upgraded, new installations will be added.</p> <p>Most public health clinics are reporting immunizations to the system.</p> <p>The system has data on immunizations provided to non-managed care Medicaid clients.</p> <p>Software development on the stand alone immunization tracking system for private practitioners, (called KIDS), was canceled because many of the functions provided were planned for the Clinic Assessment Software Application (CASA) provided free of charge by the Centers for Disease Control (CDC)</p>

Action	Deadline	Status
5. Defendants will maintain updated lists of providers who serve EPSDT recipients. The lists will specify practitioners' practice limitations, if any. Defendants will provide to appropriate NHIC staff information about provider practice limitations and encourage NHIC to use the information. # 93		The provider "LOOKUP" system (software allowing regions to input their provider base and identify individual provider limitations) is now in its 3rd version after receiving input on design and data collection from Regional staff. This new version has been installed at all Department Regional headquarters, at some contractor sites and in all of Region 11. All THSteps regional sites continue to have access to Version 1 of the software with plans to up-date to the latest version within the next month. There are also plans to make some more updates to the system in the coming months
6. Defendants will implement a method to index the reimbursement rate for medical check ups in non-managed care areas. The indexing method will cause the reimbursement to change in accordance with a methodology developed by TDH. #99	By September 1, 1997	<p>On January 30, 1997, the plaintiffs were advised that an indexing method had been completed resulting in fee increases beginning in FY 1998. The dollars required to implement the increases has been included in the Department's legislative appropriation request for the next biennium.</p> <p>On February 20, 1997, the plaintiffs were provided with additional information on the indexing methodology.</p> <p>Exhibit C</p>

Action	Deadline	Status
7. Defendants will conduct an initiative to orally inform pharmacists about EPSDT's coverage. # 130-3		<p>The four part pharmacists training plan forwarded to the Plaintiffs on 12/16/96, provided for a multi-faceted approach to training, using multiple learning opportunities and methodologies.</p> <p>Part 1:</p> <p>An informational handout has been printed and distributed to all pharmacies enrolled in the Vendor Drug Program. A supply of the handout was mailed to each Regional TDH pharmacist to be used at the annual visit with each enrolled Vendor Drug Program Pharmacy. Each THSteps Regional Manager received a supply of the handout to respond to general inquiries. These activities complete Part 1 of the plan.</p> <p>Part 2:</p> <p>A request for a Web page application for EPSDT-CCP Pharmacy information is en route through the Department. The request is to provide a Web page, which shows the Medicaid CCP flyer, listing of CCP procedure codes with prices for pharmacies, and a sample billing form. The Web page will be updated annually. Permission has been given by the Vendor Drug Program to "hot-link" this page to their site, allowing readers easy access to VendorDrug Program information.</p> <p>Exhibit D</p>

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Action	Deadline	Status
8. Effort to recruit family planning clinics to provide EPSDT medical check ups will be coordinated with TDH's family planning. #139		A TDH workgroup has been reviewing the development of procedure codes to facilitate payment for THSteps check-ups concurrent with the annual Family Planning examination. A draft policy has been developed by THSteps staff. A broader work group representing several programs, (i.e. school based care, FQHCs, managed care, FP plus THSteps), is now studying the policy impact on their respective responsibilities.

Action	Deadline	Status
9. TDH will recruit Independent School Districts to provide EPSDT medical and dental check ups and coordinate other needed services. TDH will emphasize the development of centers to address the needs of pregnant teenagers in school districts that are interested in developing this resource for their students. #141		See Exhibit E for Regional reports received in the month of April 1997. Future regional Texas Health Steps monthly state office reports will include specific reporting on THSteps regional staff ISD and Headstart activities.
10. TDH will cooperate with HeadStart programs to ensure that HeadStart students who are EPSDT recipients have access to EPSDT services. #142		Exhibit E
11. Defendants will conduct outreach to families with EPSDT recipient infants. (Baby Bottle Tooth Decay). # 148	Beginning January, 1996	On April 14, 1997, the plaintiffs were furnished with the THSteps plan for a standardized statewide Baby Bottle Tooth Decay\White Spot Awareness campaign. Implementation will begin in June 1997, with completion scheduled in September 1997. Exhibit F

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Action	Deadline	Status
12. Defendants will maintain reports of the number and percent of participating dentists who see 0-29, 30-99 and 100 + EPSDT recipients every 3 months. # 165	Beginning October 31, 1995	<p>On December 17, 1996, the plaintiffs were provided with a statewide dental provider participation report for FY 96.</p> <p>On May 7, 1997, this information was supplemented by two different quarterly reports for all of FY 96 and the first quarter of FY 97. The first report included dentists providing 0-29 services as required by the Decree. The second report included dentists providing 1-29 services in order to give the plaintiffs a more accurate assessment of participation.</p> <p>Exhibit G</p>
13. Defendants will prepare a report of the number and percent of recipients who receive 1 dental check up per year and 2 dental check ups per year. # 171	By September 30, 1996	<p>On February 5, 1997, the plaintiffs rejected the Department's report provided in response to paragraph 171.</p> <p>Although the parties disagree on whether the information provided meets the intent of the Consent Decree, TDH has prepared an alternative methodology proposal which will be forwarded to the plaintiffs for review the week of May 12, 1997. (see attached draft)</p> <p>Exhibit H-1</p>
14. Parties will agree on expected increase in the number and percent of recipients who receive 1 and 2 dental check ups/year. # 172	By December 1, 1996	Deferred, pending receipt of the reports referenced in Item # 13.

Action	Deadline	Status
15. Defendants will arrange for a study to assess the dental health of the EPSDT population. The study will evaluate improvements in the number and percent of recipients who 1) have no cavities, 2) have no untreated cavities and 3) require hospital treatment for dental problems. Subject to Plaintiffs approval. # 174	By March 1, 1996	The Department's first Request for Proposal (RFP) developed in preparation for contracting for this study was rejected by the Plaintiffs. A new RFP was developed and the plaintiffs agreed to publication of the RFP on March 17, 1997. The Deparment is now preparing for publication of a notice in the TEXAS REGISTER in May 1997, announcing the RFP for the study. Exhibit I

Action	Deadline	Status
<p>16. Defendants will begin migrant program in Lower Rio Grande Valley. Later, they will expand appropriate outreach efforts for farm worker families to other areas of the state as needed. # 180</p> <p>Defendants will make efforts to help farm worker families to utilize EPSDT benefits promptly upon return to Texas. Efforts will include door to door outreach in communities where farm workers live. # 181</p> <p>When outreach units receive information about the identity of migrant farm worker recipients who request outreach services, outreach units will give priority status to those recipients. They will provide outreach as quickly as possible. Outreach information will encourage this group of recipients to receive as many needed services as possible before they move on again. # 183</p>	Beginning in 1995	<p>Attached is the formalized plan for meeting the requirements in Paragraphs 180,181, and 183.</p> <p>A program integrator is being hired in the TDH state office to assure full coordination and implementation of the plan during the next 12 months.</p> <p>Exhibit J</p>

Action	Deadline	Status
17. TDH will assure by various means that managed care organizations arrange appropriate training for all health care providers and their staff who serve EPSDT recipients as authorized by SB 601. # 194		<p>The Department responded to the Plaintiff's about training providers in managed care on December 11, 1996. There remained some disagreements between the parties on the meaning of paragraph #194.</p> <p>On February 24, 1997, a plan for educating managed care providers was sent to the plaintiffs</p> <p>Language changes on training requirements were made in the Harris Service Area RFA dated March 7, 1997, with the assurance that these changes would appear in future managed care documents.</p> <p>A plan to assure that all managed care health care providers and their staff are trained about THSteps is under development and should be ready for review by the plaintiffs in late May, 1997.</p> <p>Exhibit K</p>
18. Efforts to inform teens and their parents about EPSDT will address the complex privacy and consent issues involved. # 207		<p>As demonstrated in the attached Exhibit, the Department has been working on the issue of teen privacy/ consent and sharing this information with the plaintiffs for review and comment.</p> <p>Exhibit L</p>

Action	Deadline	Status
19. TDH and DPRS MOU will establish a method to report the number and percent of EPSDT recipients under the supervision of DPRS who receive all of their medical and dental check ups when due. # 212-3		<p>DPRS has agreed to a schedule of dental exams every 6 months instead of the previously required 12 months.</p> <p>DPRS is still developing how reports will be produced from their new automation program (CAPS). Ways are still being discussed on how to produce special data base queries that can be shared with outside agencies such as TDH.</p> <p>The vacant DPRS program specialist position responsible for coordinating the THSteps issues with TDH has now been filled.</p>
20. Conduct annual assessments of the effectiveness of the transportation program. # 223 Defendants method for evaluating the transportation system will be subject to Plaintiffs approval. # 227	By March 1996 each year.	<p>A Medical Transportation Program evaluation was completed by the Department in CY 96 , but was rejected by the Plaintiffs.</p> <p>Two new Requests for Proposal (RFP) to contract for new evaluations have been completed and were approved by the plaintiffs in March 1997 for publication in the TEXAS REGISTER.</p> <p>Notices were published in the TEXAS REGISTER on April 29, 1997, announcing the Department's RFP for the two Medical Transportation Program studies. Copies were forwarded to the plaintiffs.</p> <p>See Exhibit M</p>

Action	Deadline	Status
21. Toll free numbers for EPSDT recipients will be staffed sufficiently by well-trained personnel. No calls may be "answered" by a tape recording during working hours except in unusual circumstances. # 247		<p>A monitoring plan to assure compliance with #247 has been implemented.</p> <p>The results of the February 1997, Quality Assurance Survey and Automatic Call Distribution data for the THSteps and Medical Transportation Program client 1-800 numbers were furnished to the plaintiffs on April 15, 1997. Information received for the month of March 1997 is currently being evaluated and will be provided once the report has been completed.</p> <p>Exhibits: N</p>
22. Parties will complete a case management plan for the EPSDT program. # 264 Defendants will finalize medical case management regulations and implement the program. # 270	By January 31, 1996 By September 1, 1996	<p>Proposed THSteps Medical Case Management rules have been submitted to the plaintiffs and will be submitted to the Medicaid Medical Care Advisory Committee (MCAC) for discussion and action on May 8, 1997.</p> <p>The proposed rules will also be submitted to the TDH Board at its May 29-30 meeting.</p> <p>It is recognized that there are unresolved issues between the parties. The plaintiffs in a letter dated April 24, 1997, urge the members of MCAC to disapprove the proposed rules and to recommend that TDH staff revise the rules before they are forwarded to the TDH Board. The letter is being provided to the MCAC members as written comment on the rules. The attorney for the plaintiffs has also been advised that she is welcome to provide oral comment at the meeting.</p> <p>Exhibit: O</p>

Action	Deadline	Status
23. Defendants will conduct 2 analyses. They will measure the percent of EPSDT recipients who receive medical check ups and 2 dental check ups/year in each county or county cluster. # 277	Beginning in 1997	The statewide analysis will contain this information. See item #31.
24. Complete a statewide analysis every year by March 30, identifying the counties or county clusters lagging behind the state average for medical check-ups beginning in 1996, and medical and/or dental check-ups beginning in 1997. # 280	Beginning in 1997	<p>The 1996 report was completed and previously furnished to the Plaintiffs (FY 95 data).</p> <p>In an effort to provide consistent, comparable information, TDH staff has produced a county level THSteps utilization report, based on the specifications used for the Federal HCFA 416 report. Like the HCFA 416 report (See Item 25) missing data and data inconsistencies have prohibited the production of a correct version of the report. It is hoped the report can be delivered to the plaintiffs in mid-June 1997.</p>
25. Defendants will report EPSDT participation statistics to the Federal Government on the HCFA form 416. # 283	Every year from 1996-1999	Submission of the Federal HCFA 416 report to the Health Care Financing Administration and to the plaintiffs will be delayed until June 1997, pending receipt of all the necessary medical check-up data and the resolution of identified data discrepancies.
26. Defendants will also report to Plaintiffs the number and percent of recipients who receive all of their scheduled medical and dental check ups. # 284	Defendants will provide these reports to the Plaintiffs no later than Dec. 31 of each year.	<p>The Department's proposal for meeting Paragraph 284 was rejected by the plaintiffs in January, 1997.</p> <p>The attached draft alternative methodology proposal will be forwarded to the plaintiffs. Exhibit H-2</p>

Action	Deadline	Status
27. Parties will further agree on a target goal for each health outcome indicator. # 294 Defendants will report the best available information on each health indicator annually. # 295	Beginning September 1, 1996, and annually thru 1999.	Pending - See item #28

Action	Deadline	Status
28. Defendants will present their proposed methodology for studies to evaluate the health of the EPSDT population. # 295	By April 1, 1996	<p>The three outcome measure reports, (percent of teens receiving first trimester prenatal care, percent of low birth weight infants, and percent of children with elevated blood lead levels), were provided to the plaintiffs on February 4, 1997. Follow-up information was provided on March 18, 1997. The analysis of second and third trimester prenatal care will be available by 5-15-97.</p> <p>Steps are being taken to make the Program for Amplification for Children of Texas (PACT) database more usable, e.g. , reformatting the database.</p> <p>Immunization data were received in early May and are being analyzed.</p> <p>The remaining outcome measures are based on data not available at the Health Department, (asthma, mental health, vision, developmental milestones, and nutrition), and will have to be determined through chart review. Several limitations of Medicaid data for sample design have become obvious. Therefore, Professor Eltinge at Texas A&M University is submitting a report of the parameters needed to be considered for the methodology of the chart reviews. Staff is reviewing hospital discharge data for measurement appropriateness and investigating other methods to measure asthma morbidity. Staff is continuing to meet with MHMR to define measurable indicators for mental health. All other measures have been defined.</p> <p>A full time TDH employee was hired in April 1997 and will begin preparing the sample design for chart review in the upcoming weeks.</p> <p>Exhibit P</p>

Action	Deadline	Status
29. Defendants will develop corrective action plans to address all matters within Defendants'control to improve results for each indicator (health) # 296.	By January 30, each year	Deferred pending completion of the data collection.
30. Outreach units will respond to providers' requests for assistance to encourage recipients to receive services when recipients a) miss appointments, or b) are overdue for check ups. Defendants will inform providers that this service is available. Defendants will also explain to providers how to contact outreach units. #96	Beginning September 1, 1995.	See Exhibit Q for Regional reports received in the month of April 1997. Exhibit Q

Dates subject to change per agreement by both parties.